



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2015-0113]**

#### **Parts and Accessories Necessary for Safe Operation; Application for an Exemption from the Entertainer Motorcoach Council**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** FMCSA requests public comment on an application for exemption from the Entertainer Motorcoach Council (EMC) to allow its members to operate certain vehicles that do not meet the emergency exit requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). The FMCSRs require buses with a gross vehicle weight rating (GVWR) of more than 10,000 pounds, manufactured on or after September 1, 1994, to meet the emergency exit requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 217, “Bus Emergency exits and window retention and release” in effect on the date of manufacture. FMVSS No. 217 requires side exits and at least one rear exit, but when the bus configuration precludes installation of an accessible rear exit, a roof exit is required in the rear half of the bus to provide a means of egress when the bus is overturned on either side. EMC believes that while certain “Entertainer Coaches” do not have a rear or roof exit, the emergency exit windows at the rear sides of the vehicle that

open manually and provide openings large enough to admit unobstructed passage provide an equivalent level of safety.

**DATES:** Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2015-0113 using any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- Hand Delivery: Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday-Friday, except Federal holidays.

*Instructions:* All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading for further information.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12–140, DOT Building, 1200

New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

*Public participation:* The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the “help” section of the <http://www.regulations.gov> Web site as well as the DOT’s <http://docketsinfo.dot.gov> Web site. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

**FOR FURTHER INFORMATION CONTACT:** Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC–PSV, (202) 366–0676; Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Section 4007 of the Transportation Equity Act for the 21st Century (TEA– 21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the FMCSRs. On August 20, 2004,

FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

### **EMC Application for Exemption**

EMC applied for an exemption from 49 CFR 393.62(a) to allow motor carriers to operate certain “Entertainer Coaches” that do not comply with the regulation’s emergency exit requirements. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.62(a) of the FMCSRs requires buses with a GVWR of more than 10,000 pounds, manufactured on or after September 1, 1994, to meet the emergency exit

requirements of FMVSS No. 217 in effect on the date of manufacture. FMVSS No. 217 requires all buses (other than school buses) to provide unobstructed openings for emergency exit which collectively amount, in total square centimeters, to at least 432 times the number of designated seating positions on the bus. At least 40 percent of the total required area of unobstructed openings shall be provided on each side of a bus. However, in determining the total unobstructed openings provided by a bus, no emergency exit, regardless of its area, shall be credited with more than 3,458 square centimeters of the total area requirement.

For buses with a GVWR of more than 10,000 pounds, FMVSS No. 217 requires that the unobstructed openings requirements be met by providing side exits and at least one rear exit. The rear exit must meet the requirements of S5.3 – S5.5 of the standard when the bus is upright and when the bus is overturned on either side, with the occupant standing facing the exit. When the bus configuration precludes installation of an accessible rear exit, a roof exit that meets the requirements of S5.3 – S5.5 when the bus is overturned on either side, with the occupant standing facing the exit, shall be provided in the rear half of the bus.

Neither the FMVSSs nor the FMCSRs define the term “Entertainer Coach.” In its application, EMC describes these vehicles as “motor vehicles constructed on a bus or MPV [multipurpose passenger vehicle] chassis which provide temporary residential accommodations, as evidenced by the presence of at least four of the following facilities: Cooking, refrigeration, self-contained bathroom, heating and/or air conditioning, a potable water supply including a faucet and sink, and a separate 110-125 volt electric power supply. This definition generally tracks the definition of ‘motor home’ in the

FMVSS and appropriately describes coaches that are built as temporary residential accommodations for the entertainment industry.”

In support of its application, EMC states:

EMC seeks this exemption because the rear exit and roof hatch requirements in FMVSS 217 and FMCSR 393.62(a) preclude the efficient and effective operation of Entertainer Coaches. As required by 49 CFR part 381.310(c)(5), Entertainer Coaches provide an equivalent level of safety when equipped with emergency exit windows at the rear sides of the vehicle that open manually and provide openings large enough to admit unobstructed passage. Entertainer Coaches are designed and used to provide temporary residential accommodations and, because the occupants are celebrities, their families and their staff, require an additional level of security to ensure security and protection for their occupants.

The requirement for rear exits in buses over 10,000 lbs. GVWR is intended to ensure a sufficient amount of rear egress for vehicles that carry a large number of passengers. The typical motorcoach is 45 feet in length and carry as many as 59 passengers. Entertainer Coaches, in contrast, typically carry less than 15 passengers, and many carry less than 10 passengers. EMC recognizes the importance of assuring access through the rear of the vehicles, even when the number of passengers is small. Such egress, however is readily available – as applied to Entertainer Coaches – by the emergency exit windows that come standard on the chassis generally used by the Entertainer Coach industry, the Prevost Entertainer 2000. Those windows allow for an egress area of 17” tall by 24” wide. The Prevost roof hatch allows for a similar egress area, 23” x 23”. As a practical matter, the egress area is equivalent. As a result, Entertainer Coaches with emergency exit windows offer an equivalent level of safety as those with a roof hatch...

Entertainer Coaches have an exemplary safety experience. Unlike the typical motorcoach passengers, these vehicle occupants are well acquainted with the vehicle. In particular, they are fully aware of the location and need for fast exit in the event of an emergency. Although fires can and do occur on these vehicles, the small number of occupants ensures safe exit from either the front or the back of the vehicle without the need for additional roof hatches. Such fires, furthermore, typically come from the back of the bus and occur when the bus is upright, further offsetting the practical need for a rear exit that meets the specific requirements of FMVSS 217.

EMC states that “If the exception is not granted, the entertainers will suffer serious disruption to their tour schedules. Denial of the exemption will also lead to significant economic impacts due to the failure of the entertainers to be able to appear as

scheduled. The substantial disruption is not merited by any insistence on the strict construction of any overly broad requirement that does not take the unique circumstances of Entertainer Coaches into account.”

### **Request for Comments**

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on EMC’s application for an exemption from 49 CFR 393.62(a). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice.

Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will continue to file relevant information in the public docket that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: April 24, 2015.

**Larry W. Minor,**

Associate Administrator for Policy.

**BILLING CODE 4910-EX-P**

